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| 54414 7590 02/26/2009 MYERS BIGEL SIBLEY & SAJOVEC, P.A. P.O. BOX 37428 RALEIGH, NC 27627 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,808

Applicant(s)

KARLBERG, JOHAN

Examiner

JUNCHUN WU

Art Unit

2191

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-13 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-13 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date 2/2/2009.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to amendment filed on Dec. 15, 2008.
2. Claims 1 and 9 are amended.
3. Claims 1-5, 7-13 and 15-17 are pending in this application.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, 7-13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasse (Canada Pub. No. CA2318293) and in view of Jamadagni (US Pub. No. 20030143988 A1 hereinafter "Jamadagni") and further view of Schroath (US Pub. No. 20020169849 A1 hereinafter "Schroath").

Per claim 1 (Currently amended)

Sasse discloses

A method for downloading settings for an application into a device, comprising:

- programming a menu system of the device in dependence of and preparation for predetermined applications to be downloaded, such that the device is adapted to display a menu in which a user may navigate, the menu being tailored to handle downloading of settings in connection with said application and guiding the user (in Abstract "*The invention relates to a method for terminal assisted menu presentation of value added*")

services in mobile communication systems where said value added services are accessible via value added services nodes. Objects containing data in the form of programs, functions, etc. are loaded in the mobile terminal and said objects are controlled, modified or executed via the aerial interface of the mobile communication system. Said objects allow a preferably visual menu presentation in the mobile station for the selected value added service making it considerably easier for the subscriber to use it”).

- *actuating the device by means of a keystroke while in said menu causing the device to contact a server and download the settings for the application (on page 2 in specifications “The mobile station user is able to initiate functions in the value added services nodes by means of actuating the keys displayed in the menu. When a key is actuated, the menu in the display of the mobile terminal is adjusted by the value added services node in accordance with the action that took place in the value added services node.”).*

But Sasse does not disclose

- Some of the applications originating from different service providers, each having a different server, such that a correct server associated with respective application is contacted.

However, Jamadagni discloses

- Some of the applications originating from different service providers, each having a different server, such that a correct server associated with respective application is contacted ([0091] “Automatic download enables registration of the downloaded software with one or more service providers in a given location area. The Service Agent 34 or

download server registers with the Directory Agent 36 by advertising its services one at a time.” & [0049] “The system 10 automatically downloads services, modes and software available in those locations stored in a component repository 30, or like server, to the terminal 12. The terminal 12 stores or caches this information in the mode cache 20.”

Refer to Figure 1 & 2).

- Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify teaching of Sasse with the teachings of Jamadagni to include some of the applications originating from different service providers, each having a different server, such that a correct server associated with respective application is contacted in order to provide a system that enables a terminal or user to query for services available in a selected location and further desirable that system enables the discovery, automatic selection and download of network download services ([0005]).

Both Sasse and Jamadagni do not disclose

- Preparing the device during the manufacturing thereof by programming a menu system of the device

But Schroath discloses

- Preparing the device during the manufacturing thereof by programming a menu system of the device ([0045] “...The method can also include the step of, prior to displaying to the user the menu of different distinct user devices, displaying to the user via the display device a menu of a plurality of manufacturers of user devices from which the user can choose the manufacturer of the particular user device for which software is desired.”)

- Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine teachings of Sasse and Jamadagni with the teachings of Jamadagni to include preparing the device during the manufacturing thereof by programming a menu system of the device in order to provide methods which allow a user to acquire software for a user device from a source which allows a more current version of the software to be provided than might be if the software were included with the user device itself. Specifically, the user downloads the software from a computer memory device which can be made available by the manufacturer of the device. ([0015])

Per claim 2 (Previously presented)

the rejection of claim 1 is incorporated

Sasse further discloses

the device to contact the server comprises:

- causing the device to contact the server over the air by calling a telephone number loaded into the device and associated with said application (on page 3 in specifications “*The loading process is initiated via the aerial interface by the user or by events, such as the initial call from/to a value added services node.*”)

Per claim 3 (Previously presented)

the rejection of claim 1 is incorporated

Sasse further discloses

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- establishing a session with the server, wherein questions and answers are presented in further menus in the device (on page 1a in specifications “*The object of the invention is to propose a method for terminal assisted menu presentation of value added services in mobile communication systems, which optimally assists the subscriber in the use of a value added service via his mobile station.*”).

Per claim 4 (Previously presented)

the rejection of claim 1 is incorporated

Sasse further discloses

- exchanging information between the device and the server by means of one or more messages in a standardized format (on page 4 in specifications “*The preferred transmitting mechanisms for the objects via the mobile telephone network 4 are short messages (SM: short messages) or GPRS services.*”).

Per claim 5 (Previously presented)

the rejection of claim 4 is incorporated

Sasse further discloses

- the standardized format is short message service (SMS) (on page 4 in specifications “*Short messages (SM) or GPRS services are also used for controlling the objects.*”)

Per claim 7 (Previously presented)

the rejection of claim 1 is incorporated

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Sasse further discloses

- presetting the device to a specific service provider by selecting a service provider from a list in a menu (on page 2 in specifications “*The objects assist the operation between mobile station user and the value added services node in that the menu for utilizing the respective value added service is displayed fully or in part on the display of the MS (mobile station) part depending on the actual position in the menu.*”).

Per claim 8 (Previously presented)

the rejection of claim 1 is incorporated

Sasse further discloses

- presetting the device to a specific service provider by inserting a smart card (SIM) containing information about possible service providers and services (on page 6 in specifications “*This takes place by means of a SIM card reading and writing device from the service provider 10 by means of which the required data are written into the memory of SIM. The service provider can request the respective object data from the object center 9 and supply these to the SIM card reading and writing device.*”).

Per claim 17 (Previously presented)

the rejection of claim 9 is incorporated and Sasse further discloses

- the device is a portable telephone, a pager, a communicator, a smart phone or an electronic organizer (In abstract, the invention related to mobile devices which may

comprise portable telephone, cell phone, a pager, a communicator, a smart phone or an electronic organizer etc.).

6. Per claims 9-13 and 15-16
- They are device claims corresponding to the method claims 1-5 and 7-8 respectively and are rejected the same reason set forth in connection of the rejection of claims 1-5 and 7-8 above.

Response to Arguments

7. Applicant's arguments filed on June 19, 2008 have been fully considered but they are not persuasive.

- In the remarks, Applicant argues that:
 - (a) In regard to independent claims 1 and 9 currently amended claims recited "Preparing the device during the manufacturing thereof by programming a menu system of the device..." which references do not disclose or suggest.

Examiner's response:

Examiner disagrees.

- (a) Applicant's arguments with respect to claims 1 and 9 have been considered but are moot in view of the new ground(s) of rejection - see Schroath, arts made of record, as applied hereto.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUNCHUN WU whose telephone number is (571)270-1250. The examiner can normally be reached on 8:00-17:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JW
/Wei Y Zhen/

Supervisory Patent Examiner, Art Unit 2191